

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #1, INC.	)	
FOR A CERTIFICATE OF PUBLIC CONVENIENCE	)	
AND NECESSITY TO CONSTRUCT A CELL SITE	)	CASE NO. 95-147
LOCATED OFF U.S. HWY. 68 ON RUDOLPH	)	
ROAD, WEST OF AURORA, MARSHALL COUNTY,	)	
KENTUCKY	)	

O R D E R

On April 20, 1995, Kentucky RSA #1, Inc. filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower to serve Rural Service Area No. 1 ("RSA No. 1"). RSA No. 1 includes Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall and McCracken counties in Kentucky. Kentucky RSA #1, Inc. has requested authorization to construct a cell site in Marshall County, Kentucky. Kentucky RSA #1, Inc. received the authority to operate a cellular radio telecommunications system in RSA No. 1 in Case No. 94-397.<sup>1</sup>

The proposed cell site consists of a self-supporting antenna tower, not to exceed 300 feet in height, to be located on Rudolph

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<sup>1</sup> Case No. 94-397, The Joint Application of Telephone and Data Systems, Inc., an Iowa Corporation, Kentucky RSA #1, Inc., a Kentucky Corporation, PC Cellular of Kentucky, L.P., a Delaware Limited Partnership, Equicell of Kentucky, Inc., a Delaware Corporation, P.C. Cellular, Inc., a Delaware Corporation, and George L. Schrenk for the Approval of the Acquisition of all Partnership Interest in PC Cellular of Kentucky, L.P. by Kentucky RSA #1, Inc. and for Establishment of Initial Tariffs Describing Conditions of Service.

Road, approximately .83 miles west of the intersection of U.S. Highway 80 and Rudolph Road, west of Aurora, Marshall County, Kentucky (the "Aurora cell site"). The coordinates for the Aurora cell site are North Latitude 36° 45' 30" by West Longitude 88° 10' 11".

Kentucky RSA #1, Inc. has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Aurora cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Aurora cell site's construction is exempt from local zoning ordinances; however, Kentucky RSA #1, Inc. has notified the Marshall County Judge/Executive of the proposed construction. Kentucky RSA #1, Inc. has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") for the construction and operation of the Aurora cell site. Both applications are still pending.

Kentucky RSA #1, Inc. has filed notices verifying that each person who owns property or who resides within 500 feet of the Aurora cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine the proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Kentucky RSA #1, Inc. should notify the Commission if it does not use this antenna tower to provide cellular telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Kentucky RSA #1, Inc.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Kentucky RSA #1, Inc. should be granted a Certificate of Public Convenience and Necessity to construct and operate the Aurora cell site under its currently approved tariff.

IT IS THEREFORE ORDERED that:

1. Kentucky RSA #1, Inc. be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Aurora cell site.

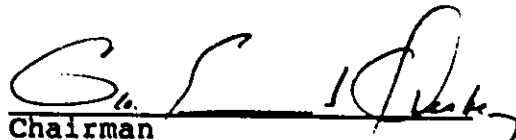
2. Kentucky RSA #1, Inc. shall file a copy of the final decisions regarding the pending FAA and KAZC applications for this cell site construction within 10 days of receiving these decisions.

3. Kentucky RSA #1, Inc. shall immediately notify the Commission in writing, if, after the antenna tower is built and

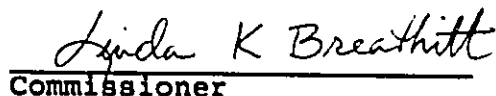
utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 12th day of May, 1995.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director